

MONTANA LEGISLATIVE HISTORY

Chapter 36 1999

Bill H 137 S _____ Original bill & history ☒ c

H. Committee on Taxation
Hearing Date(s) 1-11 ☒ c
1-25 ☒ c

Date Out _____ c

S. Committee on Taxation
Hearing Date(s) 2-9 ☒ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No
Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

3/27 Chapter Number Assigned
Chapter Number 173
Effective Date: 7/01/1999 - All Sections

HB 137 Introduced by Anderson

LC0128 Drafter: Heiman

Establish New Procedures for Resolving Disputes Between the Department of Revenue and Persons or Other Entities;...

By Request of Department of Revenue

12/22	Introduced		
1/04	1st Reading		
1/04	Referred to Taxation		
1/04	Fiscal Note Requested		
1/07	Fiscal Note Received		
1/08	Fiscal Note Signed		
1/08	Fiscal Note Printed		
1/11	Hearing		
1/25	Committee Executive Action--Bill Passed as Amended	18	2
1/26	Committee Report--Bill Passed as Amended		
1/30	2nd Reading Passed	93	5
2/01	3rd Reading Passed	95	3
	Transmitted to Senate		
2/02	Referred to Taxation		
2/09	Hearing		
2/09	Committee Executive Action--Bill Concurred	6	0
2/09	Committee Report--Bill Concurred		
2/15	2nd Reading Concurred	50	0
2/16	3rd Reading Concurred	49	0
	Returned to House		
2/16	Sent to Enrolling		
2/17	Returned from Enrolling		
2/17	Signed by Speaker		
2/18	Signed by President		
2/19	Transmitted to Governor		
2/24	Signed by Governor		
3/02	Chapter Number Assigned		
	Chapter Number 36		
	Effective Date: 2/24/1999 - All Sections		

HB 138 Introduced by Harper

LC0142 Drafter: Kurtz

Eliminate the Annual License Renewal Fee for Wholesale Gasoline and Special Fuel Distributors;...

By Request of Department of Transportation

12/22	Introduced
1/04	1st Reading
1/04	Referred to Taxation
1/04	Fiscal Note Requested
1/08	Fiscal Note Received
1/10	Revised Fiscal Note Requested
1/10	Revised Fiscal Note Received
1/11	Fiscal Note Signed

HOUSE BILL NO. 137

INTRODUCED BY ANDERSON S

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING NEW PROCEDURES FOR RESOLVING DISPUTES BETWEEN THE DEPARTMENT OF REVENUE AND PERSONS OR OTHER ENTITIES; PROVIDING FOR AN OFFICE OF DISPUTE RESOLUTION WITHIN THE DEPARTMENT OF REVENUE; PROVIDING THAT THE DEPARTMENT SHALL BY RULE IMPLEMENT THE NEW UNIFORM DISPUTE REVIEW PROCEDURE; AMENDING SECTIONS 15-1-211, 15-1-406, 15-23-102, 15-23-107, AND 39-51-1109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-211, MCA, is amended to read:

"15-1-211. Uniform tax dispute review procedure -- notice -- appeal. (1) The department of revenue shall provide a uniform ~~tax~~ review procedure for all ~~taxpayers~~ persons or other entities, except as provided in subsection (1)(a).

(a) The ~~tax~~ department's dispute review procedure ~~described in this section~~ must be adopted by administrative rule and applies to all taxes matters administered by the department and to all issues arising from the administration of ~~taxes~~ the department, except inheritance taxes, estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the ~~taxpayer~~ person or other entity and individuals subjecting the ~~taxpayer~~ person or other entity to the requirements of chapter 30, part 2, or whether the employment relationship was that of an independent contractor. ~~The procedure applies to any revised assessment of centrally assessed property taxed pursuant to chapter 23.~~

(b)(i) The term ~~"taxpayers"~~ "other entity", as used in this section, includes all ~~persons determined by the department to have a potential tax liability~~ businesses, corporations, and similar enterprises.

(ii) The term "person" as used in this section includes all individuals.

~~(2) (a) If the department determines that a request for a refund should be denied in whole or part, it shall notify the taxpayer of the determination. If the department determines that a person has failed to pay a sufficient tax, interest, or penalty, it shall provide the taxpayer with notice. The notice stops the~~

1 ~~running of any applicable statute of limitations regarding the assessment of the tax.~~

2 ~~—— (b) A notice under this section must clearly state:~~

3 ~~—— (i) the reasons for the department's determination that a refund is not due or that tax plus interest~~
4 ~~and penalty, if any, are due;~~

5 ~~—— (ii) the taxpayer's right to a review by the department, the taxpayer's right to appeal after a final~~
6 ~~department decision, and the taxpayer's right to a review of determinations by the department of labor~~
7 ~~and industry and board of labor appeals of whether an employer-employee relationship existed between~~
8 ~~the taxpayer and certain individuals or whether the employment relationship was that of an independent~~
9 ~~contractor;~~

10 ~~—— (iii) failure to notify the department within 30 days will result in a forfeiture of the taxpayer's right~~
11 ~~to contest the department's determination under this section or to file an appeal with the state tax appeal~~
12 ~~board;~~

13 ~~—— (iv) that the taxpayer has 30 days to either notify the department in writing that the taxpayer does~~
14 ~~not agree with an assessment or pay the amount assessed;~~

15 ~~—— (v) that a warrant for distraint placing a lien on the taxpayer's property may be issued unless the~~
16 ~~taxpayer notifies the department that the taxpayer disagrees with an assessment or pays within 30 days;~~
17 ~~and~~

18 ~~—— (vi) that the notice stops the running of the statute of limitations regarding the assessment of the~~
19 ~~tax. (2) (a) Persons or other entities having a dispute with the department have the right to have the~~
20 ~~dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures~~
21 ~~such as mediation.~~

22 (b) The department shall establish a dispute resolution office to resolve disputes between the
23 department and persons or other entities.

24 (c) Disputes must be resolved by a final department decision within 180 days of the referral to
25 the dispute resolution office, unless extended by mutual consent of the parties. If a final department
26 decision is not issued within the required time period, the remedy is an appeal to the appropriate forum
27 as provided by law.

28 ~~—— (3)(a) A taxpayer shall notify the department, in writing, that the taxpayer objects to the~~
29 ~~determination within 30 days from the date that the notice is mailed. The notification by the taxpayer is~~
30 ~~not required to specify the reasons for the disagreement or be in any particular form unless the taxpayer~~

1 is objecting to a determination that an employer-employee relationship existed between the taxpayer and
2 individuals, subjecting the taxpayer to the requirements of chapter 30, part 2. If the taxpayer does not
3 notify the department within 30 days:

4 ~~—— (i) an assessment becomes final and the assessed tax, plus any interest and penalty, must be~~
5 ~~paid;~~

6 ~~—— (ii) the taxpayer waives any further right to review under this section or to appeal to the state tax~~
7 ~~appeal board; and~~

8 ~~—— (iii) a warrant for distraint may be issued without further opportunity to be heard on the~~
9 ~~assessment.~~

10 ~~—— (b) (i) A taxpayer who notifies the department pursuant to subsection (3)(a) that the taxpayer~~
11 ~~disagrees with a tax assessment shall present the objections, the reasons for the objections, and any~~
12 ~~other information to the administrator of the division that administers the tax or to the administrator's~~
13 ~~designee within 60 days after the notice referred to in subsection (3)(a) is mailed. The reasons for~~
14 ~~objections may be provided in writing, by telephone, or, if requested by the taxpayer, at an informal~~
15 ~~conference. An informal conference is not subject to the Montana Administrative Procedure Act.~~

16 ~~—— (ii) An objection received by the department pursuant to subsection (3)(a) stating that the taxpayer~~
17 ~~disagrees with the department's determination that an employer-employee relationship existed between~~
18 ~~the taxpayer and certain individuals, subjecting the taxpayer to the requirements of chapter 30, part 2,~~
19 ~~must be referred to the department of labor and industry for appeal procedures pursuant to 39-51-2402~~
20 ~~and 39-51-2410.~~

21 ~~—— (c) Within 60 days after the taxpayer has presented the taxpayer's objections, as provided in~~
22 ~~subsection (3)(b), the administrator or a designee shall issue a written decision addressing the taxpayer's~~
23 ~~objections and describing the reasons for the determination. The administrator's decision must also clearly~~
24 ~~set forth the taxpayer's review rights. The administrator's decision must be provided to the taxpayer and~~
25 ~~the director of revenue. (3) (a) The department shall provide written notice to a person or other entity~~
26 ~~advising them of a dispute over matters administered by the department.~~

27 (b) The person or other entity shall have the opportunity to resolve the dispute with the
28 department employee who is responsible for the notice, as indicated on the notice.

29 (c) If the dispute cannot be resolved, either the department or the other party may refer the
30 dispute to the dispute resolution office.

1 (d) The notice must advise the person or other entity of their right to resolve the dispute with the
2 person responsible for the notice and their right to refer the dispute to the dispute resolution office.

3 (4) Written notice must be sent to the persons or other entities involved in a dispute with the
4 department indicating that the matter has been referred to the dispute resolution office. The written
5 notice must include:

6 (a) a summary of the department's position regarding the dispute;

7 (b) an explanation of the right to the resolution of the dispute with a clear description of all
8 procedures and options available;

9 (c) the right to obtain a final department decision within 180 days of the date that the dispute was
10 referred to the dispute resolution office;

11 (d) the right to appeal should the department fail to meet the required deadline for issuing a final
12 department decision;

13 (e) the right to have the department consider alternative dispute resolution methods, including
14 mediation; and

15 (f) the right to a review of determinations by the department of labor and industry and the board
16 of labor appeals of whether an employer-employee relationship existed between the persons or other
17 entities and certain individuals or whether the employment relationship was that of an independent
18 contractor.

19 ~~(4) (a) A taxpayer shall notify the department in writing that the taxpayer objects to the~~
20 ~~administrator's decision within 30 days from the date that the decision is mailed, or the taxpayer may~~
21 ~~appeal to the state tax appeal board as provided in subsection (6). If an objection is not made within 30~~
22 ~~days, the administrator's decision and any assessment become final. By failing to object, the taxpayer~~
23 ~~waives any further right to review or appeal and a warrant for distraint may be issued without further~~
24 ~~opportunity to be heard on the assessment.~~

25 ~~_____ (b) Except as provided in subsection (6), a taxpayer who objects to the administrator's decision~~
26 ~~pursuant to subsection (4)(a) shall present the taxpayer's objections, the reasons for the objections, and~~
27 ~~any other information to the director of revenue or the director's designee within 60 days after the notice~~
28 ~~referred to in subsection (4)(a) is mailed. The director or the designee may consider written information,~~
29 ~~hold a telephone conference, or conduct an informal conference, none of which are subject to the~~
30 ~~Montana Administrative Procedure Act.~~

~~(c) Within 60 days after the taxpayer has presented the objections, the director or the designee shall issue a written decision addressing the objections and describing the reasons for the decision. The director's decision is the final decision and assessment of the department.~~

~~(5) The taxpayer shall pay the assessment within 30 days after being mailed a copy of the final decision and assessment unless an appeal is filed with the state tax appeal board. If an appeal with the board is filed within 30 days after the final decision is mailed, payment is not due until final resolution by the board or, if further appeals are filed, by the appropriate court. However, any interest required by law must continue to accrue.~~

~~(6) (a) A taxpayer who validly objects to the administrator's decision may elect to file an appeal with the state tax appeal board. The appeal must be filed within 30 days after mailing an objection to the administrator's decision. If an appeal is filed, the administrator's decision is the final decision of the department.~~

~~(b) If the director notifies the board within 30 days after an appeal is filed that the director has not had an opportunity to review the administrator's decision and the director believes that a review may be helpful in resolving the controversy, the board shall stay the appeal for a time that the board considers reasonable, not to exceed 90 days except by the mutual consent of both parties. The taxpayer shall provide the taxpayer's objections and reasons for the objections to the director so that the director or the director's designee may review the controversy and issue a decision within the period of the stay granted by the board. If the taxpayer is dissatisfied with the director's decision, the stay must be lifted and the appeal resumed.~~

~~(7) The time limits in this section must be applied and interpreted as provided in Rule 6 of the Montana Rules of Civil Procedure, including additional time for mailing. Any time limit may be extended by mutual consent of the department and the taxpayer. The department shall consent to all reasonable requests for extension of deadlines.~~

~~(8) (a) (5)(a) The director of revenue or the director's designee is authorized to enter into an agreement with any taxpayer a person or other entity relating to the taxpayer's liability with respect to a tax matter administered by the department for any taxable period.~~

~~(b) An agreement under the provisions of subsection (8)(a) (4) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:~~

~~(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer,~~

1 employee, or agent of this state; and

2 (ii) in any suit, action, or proceeding under the agreement or any determination, assessment,
3 collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement
4 may not be annulled, modified, set aside, or disregarded."

5
6 **Section 2.** Section 15-1-406, MCA, is amended to read:

7 **"15-1-406. Declaratory judgment.** (1) An aggrieved taxpayer may bring a declaratory judgment
8 action in the district court seeking a declaration that:

9 (a) an administrative rule or method or procedure of assessment or imposition of tax adopted or
10 used by the department of revenue is illegal or improper; or

11 (b) a tax authorized by the state or one of its subdivisions was illegally or unlawfully imposed or
12 exceeded the taxing authority of the entity imposing the tax.

13 (2) The action must be brought within 90 days of the date the notice of the tax due was sent to
14 the taxpayer or, in the case of an assessment covered by the uniform tax dispute review procedure set
15 forth in 15-1-211, within 90 days of the date of the department director's final decision. The court shall
16 consolidate all actions brought under subsection (1) that challenge the same tax. The decision of the court
17 applies to all similarly situated taxpayers, except those taxpayers who are excluded under 15-1-407.

18 (3) The taxes that are being challenged under this section must be paid under protest when due
19 as a condition of continuing the action. Property taxes are paid under protest as provided in 15-1-402.
20 All other taxes administered by the department, except inheritance and estate taxes, are paid under
21 protest by filing timely claims for refund and by following the uniform tax dispute review procedures of
22 15-1-211. Inheritance and estate taxes are paid under protest by following the procedures set forth in
23 Title 72.

24 (4) The remedy authorized by this section may not be used to challenge the:

25 (a) market value of property under a property tax unless the challenge is to the legality of a
26 particular methodology that is being applied to similarly situated taxpayers; or

27 (b) legality of a tax other than a property tax, inheritance tax, or estate tax unless the review
28 pursuant to 15-1-211 has been completed.

29 (5) The remedy authorized by this section is the exclusive method of obtaining a declaratory
30 judgment concerning a tax authorized by the state or one of its subdivisions. The remedy authorized by

1 this section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This
2 section does not affect actions for declaratory judgments under 2-4-506."

3
4 Section 3. Section 15-23-102, MCA, is amended to read:

5 "~~15-23-102. Independent appraisal option --notice of assessment--opportunity for conference~~
6 ~~--appeal.~~ (1) The department of revenue may have property subject to the provisions of this chapter
7 assessed by a qualified independent appraiser when both the department and the owner of the property
8 subject to the assessment agree in writing:

9 (a) ~~(1)~~ on a particular independent appraiser to do an appraisal;

10 (b) ~~(2)~~ to share the costs of the independent appraisal; and

11 (c) ~~(3)~~ to accept the results of the appraisal.

12 (2) ~~(a) After assessing property under 15-23-101, the department shall notify the owner and any~~
13 ~~purchaser under contract for deed of such property, in writing, of the assessed value it has determined.~~

14 ~~----- (b) Within 20 days following notification, the taxpayer may demand a review of the validity of~~
15 ~~the department's assessment. The department shall conduct an assessment review conference, which~~
16 ~~is not subject to the contested case procedures of the Montana Administrative Procedure Act. However,~~
17 ~~a party has the right of discovery prior to any assessment revision review conference. Upon consideration~~
18 ~~following such conference, the department may revise the assessment.~~

19 ~~----- (c) Appeals from the final decision may be taken to the state tax appeal board."~~

20
21 Section 4. Section 15-23-107, MCA, is amended to read:

22 "15-23-107. Amended assessment. Whenever the valuation of centrally assessed property is
23 revised under 15-8-601 or 15-23-102(2), the department shall, within 15 days following the final decision
24 or order, enter the revision in the property tax record for each applicable county."

25
26 Section 5. Section 39-51-1109, MCA, is amended to read:

27 "39-51-1109. Tax appeals -- procedure. (1) A decision, determination, or redetermination of the
28 department involving an employer-employee relationship or the charging of benefit payments to employers
29 is final unless an interested party entitled to notification submits a written appeal of the decision,
30 determination, or redetermination. The appeal must be made in the same manner as provided in

1 39-51-2402 for the appeal of a decision relating to a claim for unemployment insurance benefits
2 Statutory rules of evidence and civil procedure do not apply to a hearing on the appeal. A hearing may
3 be conducted by telephone or by videoconference. The decision of the appeals referee and any
4 subsequent appeal must be made in the same manner as prescribed in 39-51-2403 through 39-51-2410.

5 (2) A decision, determination, or redetermination involving contribution liability, contribution rate,
6 application for refund, subject wages, or other tax-related issues must be issued by the department of
7 revenue as provided in Title 15, chapter 1, part 2, and 15-30-257, if applicable. The decision is final
8 unless an interested party entitled to notification follows the uniform ~~tax~~ dispute review procedures as
9 prescribed in 15-1-211 and 15-30-257, if applicable."

10
11 NEW SECTION. Section 6. Applicability. [This act] applies to disputes arising with the department
12 after June 30, 1999.

13
14 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

15 - END -

FISCAL NOTE

Bill #: HB0137

Title: Tax dispute review procedure

Primary
Sponsor: Shiell Anderson

Status: As introduced

Shiell W Anderson
Sponsor signature Date

Dave Lewis 1-2-99
Dave Lewis, Budget Director Date

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:	0	0
Revenue:	0	0
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
X		Included in the Executive Budget	X		Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. There is no fiscal impact to the state.

HB 137

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Taxation -

04:07 PM

-
- HB 108** SPONSOR: Swanson, Emily SHORT TITLE: Revise taxation of class 3 and 4 property; exemption; rate reduction; valuation
BY REQUEST OF: Interim Property Tax Committee
REFERRED ON: 12/23/1998 HEARD ON: 01/20/1999
EXECUTIVE ACTION: 02/19/1999 Bill Passed as Amended -- VOTE: 17 - 3
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 128** SPONSOR: Gillan, Kim SHORT TITLE: Generally revise taxation of telecommunications
BY REQUEST OF: Revenue Oversight Committee
REFERRED ON: 01/04/1999 HEARD ON: 02/04/1999
EXECUTIVE ACTION: 02/09/1999 Bill Passed as Amended -- VOTE: 19 - 1
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 132** SPONSOR: Kasten, Betty Lou SHORT TITLE: Standardize penalty and interest on late and delinquent taxes collected by DOR
BY REQUEST OF: Department Of Revenue
REFERRED ON: 01/04/1999 HEARD ON: 01/15/1999
EXECUTIVE ACTION: 01/28/1999 Bill Passed -- VOTE: 15 - 5
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 137** SPONSOR: Anderson, Shiell SHORT TITLE: Tax dispute review procedure
BY REQUEST OF: Department Of Revenue
REFERRED ON: 01/04/1999 HEARD ON: 01/11/1999
EXECUTIVE ACTION: 01/25/1999 Bill Passed as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 03/02/1999 Chapter Number Assigned
-
- HB 138** SPONSOR: Harper, Hal SHORT TITLE: Revise fuel licensure provisions
BY REQUEST OF: Department Of Transportation
REFERRED ON: 01/04/1999 HEARD ON: 01/14/1999
EXECUTIVE ACTION: 01/14/1999 Bill Passed -- VOTE: 20 - 0
FINAL DISPOSITION 03/02/1999 Chapter Number Assigned
-
- HB 139** SPONSOR: Harper, Hal SHORT TITLE: Revise LPG dealer tax return
BY REQUEST OF: Department Of Transportation
REFERRED ON: 01/04/1999 HEARD ON: 01/14/1999
EXECUTIVE ACTION: 01/14/1999 Bill Passed -- VOTE: 20 - 0
FINAL DISPOSITION 03/02/1999 Chapter Number Assigned
-

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 11, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: Rep. Dan Harrington (D)

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Proponents' Testimony:

Pat McKelvey, Chairman, State Tax Appeal Board. EXHIBIT(5)

{Tape : 2; Side : A; Approx. Time Counter : 8}

Dave Woodgerd, Chief Counsel, DOR.

{Tape : 2; Side : A; Approx. Time Counter : 22.9}

Brenda Nordlund, Department of Justice.

{Tape : 2; Side : A; Approx. Time Counter : 23.6}

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 25.5}

Closing

Rep. Harper closed the hearing.

{Tape : 2; Side : B; Approx. Time Counter : 7.9}

HEARING ON HB 137

Opening Statement by Sponsor:

Rep. Sheil Anderson, HD 5, opened the hearing. He said it would provide taxpayers with a method for mediation on independent (non-property tax) appeals.

{Tape : 2; Side : B; Approx. Time Counter : 9.4}

Proponents:

Dave Woodgerd, Chief Counsel, Department of Revenue.

{Tape : 2; Side : B; Approx. Time Counter : 13.5}

Pat McKelvey, Chairman, State Tax Appeal Board.

{Tape : 3; Side : A; Approx. Time Counter : 2.4}

Opponents: None.

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 3.9}

Closing by Sponsor:

Rep. Anderson closed the hearing.

Mary Costa, Department of Revenue, provided information which answered questions previously asked by Committee Members.

EXHIBIT(6)

{Tape : 3; Side : A; Approx. Time Counter : 24.9}

Adjourned.

{Tape : 3; Side : A; Approx. Time Counter : 27}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 25, 1999 at 9:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: None.

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

EXECUTIVE ACTION ON SB 28

Motion/Vote

Rep. Hanson MOVED to CONCUR on SB 28. On a voice vote, the MOTION PASSED, unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 25}

EXECUTIVE ACTION ON HB 137

Motion:

Rep. Rose MOVED DO PASS on HB 137.

{Tape : 2; Side : B; Approx. Time Counter : 4.2}

Motion:

Rep. Rehbein MOVED an amendment to the bill. EXHIBIT(5)

{Tape : 2; Side : B; Approx. Time Counter : 6.3}

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 7}

Vote:

On a voice vote, the amendment passed unanimously.

Motion:

Rep. Harper MOVED an amendment to the bill. EXHIBIT(6)

{Tape : 2; Side : B; Approx. Time Counter : 14.8}

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 15.3}

Vote:

On a voice vote, the MOTION PASSED unanimously.

Motion:

Rep. Rose MOVED HB 137 DO PASS AS AMENDED.

{Tape : 2; Side : B; Approx. Time Counter : 21.9}

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 22}

Vote:

On a voice vote, the **MOTION PASSED**, 18 - 2. Holden and Beck
voting no.

{Tape : 3; Side : A; Approx. Time Counter : 9.2}

Adjourn.

{Tape : 3; Side : A; Approx. Time Counter : 12.6}

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Taxation -

05:12 PM

-
- HB 82** **SPONSOR:** Harper, Hal **SHORT TITLE:** Revise county tax appeal procedure
 BY REQUEST OF: State Tax Appeal Board
 REFERRED ON: 01/27/1999 **HEARD ON:** 02/09/1999
 EXECUTIVE ACTION: 02/09/1999 Bill Concurred as Amended -- **VOTE:** 6 - 0
 FINAL DISPOSITION 03/16/1999 Chapter Number Assigned
-
- HB 108** **SPONSOR:** Swanson, Emily **SHORT TITLE:** Revise taxation of class 3 and 4 property; exemption; rate reduction; valuation
 BY REQUEST OF: Interim Property Tax Committee
 REFERRED ON: 03/01/1999 **HEARD ON:** 03/09/1999
 FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 128** **SPONSOR:** Gillan, Kim **SHORT TITLE:** Generally revise taxation of telecommunications
 BY REQUEST OF: Revenue Oversight Committee
 REFERRED ON: 03/13/1999 **HEARD ON:** 03/19/1999
 EXECUTIVE ACTION: 04/07/1999 Bill Concurred -- **VOTE:** 8 - 0
 FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 132** **SPONSOR:** Kasten, Betty Lou **SHORT TITLE:** Standardize penalty and interest on late and delinquent taxes collected by DOR
 BY REQUEST OF: Department Of Revenue
 REFERRED ON: 02/06/1999 **HEARD ON:** 03/04/1999
 EXECUTIVE ACTION: 03/10/1999 Bill Concurred as Amended -- **VOTE:** 8 - 1
 FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 137** **SPONSOR:** Anderson, Shiell **SHORT TITLE:** Tax dispute review procedure
 BY REQUEST OF: Department Of Revenue
 REFERRED ON: 02/02/1999 **HEARD ON:** 02/09/1999
 EXECUTIVE ACTION: 02/09/1999 Bill Concurred -- **VOTE:** 6 - 0
 FINAL DISPOSITION 03/02/1999 Chapter Number Assigned
-
- HB 138** **SPONSOR:** Harper, Hal **SHORT TITLE:** Revise fuel licensure provisions
 BY REQUEST OF: Department Of Transportation
 REFERRED ON: 01/27/1999 **HEARD ON:** 02/09/1999
 EXECUTIVE ACTION: 02/09/1999 Bill Concurred -- **VOTE:** 7 - 0
 FINAL DISPOSITION 03/02/1999 Chapter Number Assigned
-

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **VICE CHAIRMAN BOB DEPRATU**, on February 9, 1999
at 9:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 82, 2/3/1999; HB 137,
2/3/1999; HB 138, 2/3/1999; HB
139, 2/3/1999
Executive Action: HB 137, HB 82, HB 138, HB 139

HEARING ON HB 82

Sponsor: REPRESENTATIVE HAL HARPER, HD 52, HELENA

Proponents: Pat McKelvey, Chairman, State Tax Appeal Board
Dave Woodgerd, Chief Council, Department of Revenue

this bill. He said this bill changes the monthly filing requirement for CNG and LPG filers to quarterly filing requirements, and will serve to reduce paperwork for both the dealers and the Department.

Bob Gilbert, Montana/Wyoming L.P. Gas Association, said his organization is in strong support of **HB 139**. He said it saves paperwork, and it saves time, which means saving money.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. ELLIS asked **Mr. Turner** if this will save time within the Department, considering that they will be getting one-fourth as many reports, and he said it would save some key-punching time, which is minimal, because once it is on the system, it is audited on the system.

Closing by Sponsor:

REP. HARPER had no closing statement.

HEARING ON HB 137

Sponsor: **REPRESENTATIVE SHIELL ANDERSON, HD 25, LIVINGSTON**

Proponents: **Dave Woodgerd, Chief Council, Department of Revenue**
Pat McKelvey, Chairman, State Tax Appeal Board

Opponents: None

Opening Statement by Sponsor:

REP. SHIELL ANDERSON, HD 25, Livingston, said the purpose of **HB 137** is to establish new procedures for resolving disputes between the Department of Revenue and persons or other entities, and to provide for an office of dispute resolution with the Department. This is a step to make the Department of Revenue more user friendly. This procedure is less legalistic, which means it is easier to use and friendlier. The process begins with alternative dispute resolution methods such as mediation and other dispute resolution practices, which are less confrontational, allowing the parties to a dispute to identify the problem and involve themselves in the process of resolving the problem. There is also a more stringent time frame within which disputes must be resolved.

Proponents' Testimony:

Dave Woodgerd, Chief Council, Department of Revenue, said that there are essentially two different processes on appeals. **HB 82** deals with property tax issues, and **HB 137** deals with appeals that are outside the property tax area that are handled within the Department of Revenue. He said the present process is too formal, has too many deadlines in it, too many requirements in it, makes the taxpayers jump through too many hoops, and often makes the process longer than it needs to be. This will make it possible to handle these issues in a more friendly and more timely manner.

Mr. Woodgerd said that the mediation process can probably resolve many of the appeals at that level, but also auditors will be given the authority to resolve as many issues as possible at their level so we don't get into this process unless it is absolutely necessary.

Pat McKelvey, Chairman, State Tax Appeal Board, said that anything that can be done to focus an issue before it comes to the State Tax Appeal Board would be a good thing. He said it does not affect the operations of the county tax appeal boards in any way because the issues that are dealt with in this process are issues that normally would have come directly to the State Tax Appeal Board because of a decision of the Department of Revenue.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. GLASER asked **Mr. Woodgerd** about redefining "person," because in the Constitution, "person" is more than an individual. It could be a corporation, as an example. **Mr. Woodgerd** said there is nothing that is intended here other than to try to clarify the bill. He referred to page 1, line 16, for example, which has crossed out the word "taxpayers" and put in "persons or other entities." So, he said, we are including persons, but we are also including entities other than persons by saying other entities.

SEN. ECK asked if "persons" also in this case means "corporation," because it does not say it is limited to individuals. **Mr. Woodgerd** referred to page 1, line 26, where the term "other entity" is defined as including businesses, corporations and similar enterprises, and then on line 28, the term "person" is defined as "individuals."

SEN. ECK asked if someone in the director's office would be designated as a mediator, and asked whether that would be a full-time mediator position or someone who does other things. **Mr. Woodgerd** said that is still undecided. He said that presently there are two people in that office that are essentially hearings examiners, and it is being considered that those people will also be trained as mediators as well as hearings examiners.

SEN. ECK then asked if in all cases it would be this person where the issue first comes, or would the Department have a lot of employees who are trained in the area of conflict resolution, and **Mr. Woodgerd** said that that is the goal of the Department, to develop a little better understanding of the taxpayers' concerns on the part of the employees.

Closing by Sponsor:

REP. ANDERSON said that this measure passed the House with a strong majority, so he encouraged passage by the committee.

NOTE: **CHAIRMAN DEVLIN** resumed the chair.

EXECUTIVE ACTION ON HB 137

Motion/Vote: **SEN. ELLIS** moved HB 137 BE CONCURRED IN. Motion carried 6-0.

CHAIRMAN DEVLIN asked **SEN. ELLIS** to carry this bill.

EXECUTIVE ACTION ON HB 82

Discussion:

SEN. DEPRATU reminded the committee that **REP. HARPER** had mentioned wanting to amend the title to read "submission" rather than "filing." **Mr. Heiman** said that technically, that was correct, that it should read "submission," but that he did not see a problem in leaving it the way it is. The committee decided that it should be changed to make it consistent with the rest of the bill.

Motion/Vote: **SEN. ECK** moved the amendment. Motion carried 6-0.

Motion/Vote: **SEN. ECK** moved HB 82 BE CONCURRED IN AS AMENDED. Motion carried 6-0.

CHAIRMAN DEVLIN asked **SEN. ECK** to carry this bill.